

Sunday, August 13, 2023

REPLYING TO YOUR UNSOLICITED EMAIL (attached)

chris.scaperlanda@mcafeetaft.com

michael.mcclintock@mcafeetaft.com

cecilia.fuenzalida@mcafeetaft.com

Dear Christopher M. Scaperlanda,

I was finally able to read your message of 8/9/23 on Friday (8/11/23) and I was disappointed by what I saw.

Your message begins by referencing something called "*Jones Public Relations Press Release*." I have no idea what that is. I have never had any involvement in anything called "*Jones Public Relations Press Release*."

I have, however, been involved in a press release and accompanying report dealing with suppressing dissent in Oklahoma and state-sponsored political spying. I have no idea if this is the press release you are trying to contact me about, or not. If it is, then this is my response.

I stand by the words of the press release and press conference dealing with suppressing dissent in Oklahoma and state-sponsored political spying. I also stand by the words found in the report (The Report) titled, "Suppressing dissent in Oklahoma; State-sponsored political spying." I stand by those words, and maintain they are true.

As a cybersecurity expert, and Certified Information Systems Security Professional (CISSP), I also stand by the words regarding the fact that the Oklahoma Turnpike Authority hired Jones PR to work for the OTA's political spying and surveillance campaign against Oklahoma citizens simply because those citizens disagree with the OTA's and Governor Stitt's plans to build new toll roads. In my professional estimation, that is exactly what occurred.

The information contained in the press release, press conference and The Report comes from documents supplied by Oklahoma Governor Kevin Stitt's office, in particular, from Deputy General Counsel Grayson P. Walker. This information was in response to Amy Cerato's Oklahoma Open Records requests.

You should know that I have no quarrel with Jones PR. While Jones PR may bear some legal liability and responsibility for events that have occurred regarding state-sponsored political spying in Oklahoma, it is the Oklahoma Turnpike Authority (OTA) that is to blame and should ultimately be held accountable. I consider Jones PR to be nothing more than hired agents. If Jones PR has endured or will endure any harm as a result of their activities with the OTA, it is of their own doing. They have only themselves and the OTA to blame. I point the finger at the OTA. It is tragically disingenuous of you to threaten me, a victim of Jones PR and the OTA's evil deeds, when you should be going after the OTA.

**FIRST AMENDMENT FREE SPEECH, FREEDOM OF EXPRESSION
THE RIGHT TO PETITION FOR REDRESS OF GRIEVANCES**

I am disappointed your client Jones PR has instructed you to threaten me and other citizens with a Strategic Lawsuit Against Public Participation (SLAPP) because of our decision to exercise our right to freedom of speech and expression regarding an issue of public concern. This right is outlined in the First Amendment to the Constitution for the United States of America. I urge you to read it.

The petition clause of the First Amendment guarantees, in part, "the right of the people. . .to petition the government for a redress of grievances." We have done exactly that by exercising our right to freedom of speech and expression regarding an issue of public concern, and are entitled to petition clause immunity. Your attempt to interfere with and abridge this right distinguishes your efforts from other normal legal proceedings, and is unacceptable.

Any assertion by you that I have made "false and defamatory statements about Jones PR" is patently false, untrue and not based on facts. Be advised that if you continue these assertions about me, I will take any and all steps necessary to remedy the situation.

Now, to speak to some of the items in your message.

PERSONALLY IDENTIFIABLE INFORMATION (PII) VS "CONFIDENTIAL PERSONAL INFORMATION"

The Report and the press conference notice state that 321 separate incidents of personally identifiable information (PII) compromise are present in the information received from Governor Stitt's office. This is true, and easily documented, yet you attempt to confuse the situation by stating:

*"Jones PR has never had access to, received, or transmitted any **confidential personal information** of any OTA opponents that it could compromise."*

Why would you do this? What are you talking about? The Report and press conference notice never mentions anything about "confidential personal information," nor does it ever mention "OTA opponents." It only speaks of "personally identifiable information (PII)," which is a widely used, accepted and settled term in the professional cybersecurity community, as well as the legal community.

For example, Westlaw Thomas Reuters Practical Law gives this definition: "Personal Information. Also known as personally-identifiable information (PII) and personal data. Broadly, the term refers to information that can be used to identify, locate, or contact an individual, alone or when combined with other personal or identifying information."

Examples of personal information can include an individual's name, home or other physical address, email address, telephone number, Social Security number, passport number, driver's license number, bank account number, credit or debit card number, and personal characteristics, including photographic image, fingerprints, handwriting or other unique biometric data.

As you can see from The Report, and the information supplied by Governor Stitt's office, **321 separate incidents of personally identifiable information (PII) compromise** are present. The PII compromise occurred when the OTA hired Jones PR to collect, store and transmit the names and photographs of Oklahoma citizens exercising their First Amendment rights, and was further exacerbated when Jones PR sold the PII to the OTA. The PII was disclosed and made available to individuals at the OTA when they had no duty-related official need to know.

This is not speculation, it is documented fact, coming straight from the Governor's office, and The Report's statements about it are true and easily verified. Your attempt to obfuscate the situation by using the specious term "confidential personal information" falls flat.

While I am not an attorney, it is also my professional estimation that the Oklahoma Turnpike Authority (OTA) and Jones PR may have violated Oklahoma law by their actions, as described below.

JONES PR

It appears to me that Jones PR violated the Oklahoma Constitution's Right to Privacy clause and the Restatement of the Law of Torts (Second) (adopted by the Oklahoma Supreme Court) by appropriating and engaging in the unauthorized use of over fifty people's names, photographs, likenesses and words (including personally identifiable information (PII)) for financial gain when they gathered, stored, transmitted and sold this information to the OTA.

It should also be noted that the United States Supreme Court has often quoted the Second and Third Restatements of Torts, which state, "[o]ne who appropriates to his own use or benefit the name or likeness of another is subject to liability to the other for invasion of his privacy" (sec. 652C; see also Restatement (Third) of Unfair Competition, sec. 46 (1995): "[o]ne who appropriates the commercial value of a person's identity by using without consent the person's name, likeness, or other indicia of identity for purposes of trade is subject to liability for [monetary and injunctive] relief")." These common law torts are well-known protections afforded United States (including Oklahoma) citizens. Clearly, the personally identifiable information (PII) gathered by Jones PR (names, photographs, etc.) had a "commercial value," because they sold it to the OTA.

It is also possible Jones PR violated Oklahoma Identity Theft laws when they willfully and with intent to defraud obtained personal identifying information (PII), including but not limited to name, address, social security number, date of birth, place of business of employment, debit/credit account numbers, driver license numbers, or any other personal identifying information of another person, living or dead (§ 21-1533.1 of Title 21 of O.S.). They defrauded the over fifty victims mentioned above by taking the value of the PII gathered and selling it to the OTA, rather than remitting it to those to whom it belonged.

OKLAHOMA TURNPIKE AUTHORITY (OTA)

It further appears to me the OTA also violated the above-mentioned Right to Privacy clauses and Laws of Torts when they used the information sold to them for financial gain as part of their efforts to acquire funding and sell bonds to finance toll roads.

It also appears the OTA violated Oklahoma Identity Theft laws when they compelled (paid) Jones PR to provide them with illicitly obtained personally identifiable information (PII).

It is also possible the OTA violated the Oklahoma Personal Privacy Protection Act when they required their contractor, Jones PR, to provide them with "personal affiliation information (PAI)" obtained regarding the over fifty victims mentioned above.

Personal affiliation information is defined as 'any list, record, register, registry, roll, roster or other compilation of data of any kind that directly or indirectly identifies a person as a Personal affiliation information is defined as 'any list, record, register, registry, roll, roster or other compilation of data of any kind that directly or indirectly identifies a person as a member, supporter, or volunteer of, or donor of financial or nonfinancial support to, any entity organized pursuant to Section 501(c)' of the Revenue Code (Section 1(B)(1) of the Privacy Protection Act) of financial or nonfinancial support to, any entity organized pursuant to Section 501(c)' of the Revenue Code (Section 1(B)(1) of the Privacy Protection Act).

This violation would have occurred when the OTA gathered PII and PAI supplied to them by Jones PR that identified people as members, supporters, or volunteers of, or donors of financial or nonfinancial support to, Pike Off OTA, an entity organized pursuant to Section 501(c) of the Internal Revenue Code.

A further problem is Jones PR selling information about Governor Kevin Stitt's political opponents to the OTA, who in turn supplied that information to the Governor's office. This information is found on pages 3, 4, 7, 8, and 11 of The Report, where OTA sent information about the activities of Gubernatorial candidates Joy Hofmeister and Joel Kintsel to Governor Stitt's office during an active campaign. Was this legal? It certainly doesn't seem ethical.

In conclusion, I state the following:

You are not allowed to threaten, harass and intimidate me in this way. You are not allowed to violate my Constitutional rights.

You are not allowed to threaten, harass intimidate or bully me, or any of the wonderful people I work with who wish to save Oklahoma from insane transportation policies, and who wish to save their homes, their properties, and their family's lifelong dreams. We will not be bullied by you, your clients, or by the police-state tactics of the Oklahoma Transportation Authority, or of Governor Kevin Stitt.

I am now putting you on notice to cease and desist.

Copies of our letters, The Report and all supporting documentation are being sent to the office of the Oklahoma Attorney General.



Dave Moore
dave@davemoorecomputers.com
405-919-9901

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August 9, 2023

VIA E-MAIL:

Randy Carter, Oklahomans for Responsible
Transportation
Dave Moore, Pike Off OTA
ralcart47@gmail.com
dave@davemoorecomputers.com

Re: *Jones Public Relations Press Release*

Dear Messrs. Carter and Moore:

This firm represents Jones Public Relations, Inc. ("Jones PR"). We have received a draft press release dated August 10, 2023 that contains false and defamatory statements about Jones PR. The draft release apparently originated from Mr. Moore's email address and lists both of your contact information. I wanted to alert you to the false and defamatory nature of the comments as soon as possible, before the press release is made public and before any harm is done to Jones PR.

The draft press release accuses Jones PR of "conduct[ing] political surveillance" and of causing "321 separate incidents of personally identifiable information compromise." These statements are demonstrably false.

Jones PR has never had access to, received, or transmitted any confidential personal information of any OTA opponents that it could "compromise." The only information Jones PR has ever received on any such people is publicly available, and indeed, is statements the OTA opponents themselves made in public forums.

Again, I wanted to reach out to you on this today, before the press release is issued, to prevent any harm that would be caused if the false and defamatory statements were released. Please be advised that, to the extent any press release is issued containing these or other false and defamatory statements about Jones PR, Jones PR stands ready to take any and all steps necessary to remedy the harm.

Sincerely,

A handwritten signature in blue ink, appearing to read 'CLMS' followed by a horizontal line.

Christopher M. Scaperlanda